

FILED

JAN 15 2008

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY *VMM* DEPUTYUNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Magistrate Case No. 08MJ0014-CAB  
 Plaintiff, )  
 v. ) **DETENTION ORDER**  
**JANET MARTINEZ** )  
 Defendant. )

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**A. Order For Detention**

After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).

**B. Statement of Reasons For The Detention**

The Court orders the defendant's detention because it finds:

- By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.
- By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

**C. Finding Of Fact**

The Court's findings are based on the evidence which was presented to Court and that which was contained in the pretrial Services report, and includes the following:

- (1) Nature and circumstances of the offense charged:  
 (a) The offense charged is:

**21 USC 841(a)(1)**

- (b) The offense is a crime of violence.
- (c) The offense involves a narcotic drug.
- (d) The offense involves a large amount of controlled substances, to wit:

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- (2) The weight of the evidence against the defendant is strong.
  - (3) The history and characteristics of the defendant including:
    - (a) General Factors:
      - The defendant appears to have a mental condition which may affect whether the defendant will appear.
      - The defendant has no family ties in the area.
      - The defendant has no steady employment.

- 1             The defendant has no substantial financial resources.  
2             The defendant is not a long time resident of the community.  
3             The defendant does not have any significant community ties.  
4            Past conduct of the defendant: \_\_\_\_\_  
5  
6

- 7             The defendant has a history relating to drug abuse.  
8             The defendant has a history relating to alcohol abuse.  
9             The defendant has a significant prior criminal record.  
10           The defendant has a prior record of failure to appear at court  
11          proceedings.  
12          (b) Whether the defendant was on probation, parole, or release by a court:  
13          At the time of the current arrest, the defendant was on:  
14           Probation  
15           Parole  
16           Release pending trial, sentence, appeal or completion of sentence.  
17          (c) Other Factors:  
18           The defendant is an illegal alien and is subject to deportation.  
19           The defendant is a legal alien and will be subject to deportation  
20          if convicted.  
21           Other: \_\_\_\_\_  
22  
23

- 24           (4) The nature and seriousness of the danger posed by the defendant's release are  
25          as follows: \_\_\_\_\_  
26

27           (5) Rebuttable Presumptions

28          In determining that the defendant should be detained, the Court also  
1          relied on the following rebuttable presumption(s) contained in 18  
2          U.S.C. § 3142(e) which the Court finds the defendant has not rebutted:

- 3          a. That no condition or combination of conditions will  
4          reasonably assure the appearance of the defendant as required  
5          and the safety of any other person and the community because  
6          the Court finds that the crime involves:  
7           (A) A crime of violence; or  
8           (B) An offense for which the maximum penalty is life imprisonment  
9          or death; or  
10          (C) A controlled substance violation which has a maximum penalty  
11         of 10 years or more; or  
12          (D) A felony after the defendant had  
13         been convicted of two or more  
14         prior offenses described in (A)  
15         through (C) above, and the  
16         defendant has a prior conviction  
17         for one of the crimes mentioned  
18         in (A) through (C) above which is  
19         less than five years old and which  
20         was committed while the  
21         defendant was on pretrial release.  
22  
23          b. That no condition or combination of conditions will  
24          reasonably assure the appearance of the defendant as required  
25          and the safety of the community because the Court finds that  
26          there is probable cause to believe:  
27           (A) That the defendant has committed a controlled substance

1 violation which has a maximum penalty of 10 years or more.  
2  
3

- 4 (B) That the defendant has committed  
5 an offense under 18 U.S.C.  
6 § 924(c) (uses or carries a firearm  
7 during and in relation to any  
8 crime of violence, including a  
9 crime of violence, which provides  
10 for an enhanced punishment if  
11 committed by the use of a deadly  
12 or dangerous weapon or device).

13 D. Additional Directives

14 Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

15 The defendant be committed to the custody of the Attorney General for confinement in a  
16 corrections facility separate, to the extent practicable from persons awaiting or serving  
17 sentences or being held in custody pending appeal; and

18 The defendant be afforded reasonable opportunity for private consultation with  
19 counsel; and,

20 That, on order of a court of the United States, or on request of an attorney for the  
21 Government, the person in charge of the corrections facility in which the defendant is  
22 confined deliver the defendant to a United States Marshal for the purpose of an appearance  
23 in connection with a court proceeding.

24 This order is made without prejudice to modification by this Court and without prejudice to the  
25 Defendant's exercise of the right to bail.

26 Dated: JANUARY 15, 2008



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CATHY ANN BENCIVENGO  
United States Magistrate Judge